

January 4, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L04P0024**
Proposed Ordinance No. **2006-0397**

CAMWEST FEDERAL WAY
Preliminary Plat Application

Location: On South 321st Street between 44th Avenue South and 51st Avenue South

Applicant: CamWest Development, Inc.
represented by **Robert D. Johns**
Johns Monroe Mitsunaga
1601 – 114th Avenue Southeast, Suite 110
Bellevue, Washington 98004
Telephone: (425) 467-9960
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King County: Department of Development and Environmental Services,
represented by **Kim Claussen**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:

Approve with conditions

Department's Final Recommendation:

Approve with conditions

Examiner's Decision:

Approve with revised conditions

EXAMINER PROCEEDINGS:

Prehearing conference held: October 5, 2006
Hearing Opened: November 14, 2006
Hearing Closed: November 14, 2006

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Developer: CamWest Development Inc.
9720 NE 120th Pl, Suite 100
Kirkland, WA 98034
425-825-1955

Engineer: Triad
12112 115th Ave NE
Kirkland, WA 98034
425-821-8448

STR: 15-21-04

Location: The site is located on South 321st Street, between 44th Ave South and 51st Ave South

Zoning: R-4
Acreage: 25.7 acres
Number of Lots: 99
Density: Approximately 3.9 units per acre
Lot Size: Approximately 4,080 square feet in size
Proposed Use: Single-family Detached Dwellings
Sewage Disposal: Lakehaven Utility District
Water Supply: Lakehaven Utility District
Fire District: King County Fire District No. 39
School District: Federal Way School District No. 210
Date of Submittal: November 24, 2004

Application completeness date: December 27, 2004

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation (KCDOT) testimony are found to be correct and are incorporated herein by reference.
3. The subject property is a 25.7-acre, roughly rectangular parcel (with a rectangular exception in the southeast portion), bisected by South 321st Street, a collector arterial road which runs east-west through the northern part of the site and then at the eastern portion of the site curves northerly to become 51st Avenue South (which runs uphill to the north). The property lies east of the intersection of South 321st Street with 44th Avenue South/46th Place South, an angled intersection. (46th Place South runs on a diagonal from the typical street grid, and cuts across the far southwestern corner of the site on an angle.) The site terrain descends mostly moderately from the northeast to the southwest, with two southwesterly sloping benches connected by a more steeply sloping descent in the east central portion of the site. The site is heavily vegetated with a typical successive-growth mix of coniferous and deciduous native tree species, understory and ground cover, with an area of pasture grasses in the central portion. The site lies within the Mill Creek subbasin of the Green River drainage basin. No defined sensitive areas such as streams and wetlands are located onsite or within close proximity.¹ The site is structurally developed with two single family residences (with outbuildings), one each in the southwest and northeast corners. The property surroundings consist of an urbanizing area of the unincorporated county, where fairly standard density new suburban residential developments are being constructed in an area of generally lower density large lot suburban/semi-rural residences.
4. Applicant CamWest Development, Inc., proposes subdivision of the property into 99 lots for detached, single-family dwellings, as well as separate tracts for drainage, open space/recreation, and future development. The initial overall residential density would be approximately 3.9 dwelling units per acre, with lot sizes approximately 4,080 square feet in area. Two large tracts would be reserved for future development: Tract H, encompassing the entirety of the property on the north side of South 321st Street, which is 4.2 acres in size; and Tract I, which occupies the eastern portions of the site and is slightly under four acres in size. The remainder of the site would be developed at a higher density than the overall property through the use of 29 dwelling unit density credits pursuant to the Transfer of Development Rights (TDR) provisions of Chapter 21A.37 KCC (in lieu of losing the development potential of the aforementioned Tracts H and I).
5. Road access to the proposed development lots will be via a realigned 46th Place South, which will be relocated from its present north-northwesterly alignment from the southwest corner of the site to run due north within the west 60 feet of the property and form a new intersection with South 321st Street (approximately 330 feet east of its current intersection). The intersection separation on South 321st Street will conform to King County Road Standards (KCRS). The existing intersection of 46th Place South with South 321st Street will be barricaded and utilizable only for emergency access. From the realigned 46th Place South, a development entry road

¹ There was a contention brought forward in the hearing record that Tract H, the northern portion north of South 321st Street, contains a stream. The preponderance of the evidence in the record is that there may be an intermittent drainage swale, but the evidence does not support a finding that it constitutes a defined sensitive area. The identification of the drainage feature will be useful in the development and review of the engineering plans for the proposed subdivision (even though the Tract H portion of the property will be reserved for future development, and not developed under this preliminary subdivision proposal).

(Road A) will run easterly into the development area of the site, from which an internal road network will branch off. The internal road network includes a proposed Road E subcollector road stub terminating on the south boundary of the site at an optimum location longitudinally (centered on a property division line to the south) for possible future extension southerly to South 324th Street and beyond.

- A. The realignment of 46th Place South to form a relocated intersection with South 321st Street is being done in part at the County's request in order to have improved sight distance for the development's entry onto South 321st Street. The new intersection may eventually be signalized, although it would not meet signal warrants upon construction (nevertheless, the Applicant is voluntarily installing the underground signal infrastructure (conduits for wiring, etc.) for such future signalization).
- B. Frontage improvements will be placed along the south side of South 321st Street (the north side awaiting the probable future development of Tract H), and extended offsite on South 321st Street to connect with those nearby to the northeast on the east side of 51st Avenue South and offsite to the west to the to-be-barricaded intersection with existing 46th Place South/44th Avenue South.
- C. At the point of transition from the current alignment of 46th Place South on the diagonal to curve due northerly at the property's southwest corner, the transition of the horizontal road curvature to the north-south alignment can be accommodated within the existing right-of-way and that dedicated by the proposed development. KCDOT indicates that the transition can be accomplished to minimize the roadway location effects on the triangularly shaped Vinton property abutting to the west, which will possess double-road frontage upon the dedication of the new alignment of 46th Place South.²
- D. Traffic impacts of the proposed development will be adequately mitigated under applicable County code requirements as proposed and as required by the proposal's Mitigated Determination of Non-significance (MDNS), which was issued by DDES as the responsible official under the State Environmental Policy Act (SEPA).
 - i. The development has been granted a traffic Certificate of Concurrency under Chapter 14.70 KCC.
 - ii. The development is also subject to the standard collection of MPS mitigation fee payments under Chapter 14.75 KCC, which apply to each dwelling unit.

² Mr. Vinton asserted in the hearing that he has adverse possession of a portion of the subject property upon which certain of his structures are encroaching and requests the provision of natural gas and sanitary sewer service to his property, as well as solid-board fencing eight feet in height to provide a noise barrier from the proposed new road on the realigned 46th Place South. The Applicant acknowledges the need to resolve any encroachment prior to final plat approval (which is the appropriate time for such resolution, rather than prior to the preliminary plat approval which is before the Examiner [*Halvorson v. Bellevue*, 41 Wn. App. 457 (1985)]). The Examiner has no authority to require the provision of gas and/or sewer service to the Vinton property as a result of the proposed development, or to require the erection of a solid-board fence on the proposed new 46th Place South frontage on the Vinton property. Those matters are left to private negotiation. (See Finding 7 regarding the desire for screening fencing on the part of property owners to the west of the site and the proposed new 46th Place South.)

- iii. As mitigation of significant adverse level of service (LOS) impacts that the proposed development will cause at the intersection of South 320th Street/Military Road South, the west (South 320th Street) leg at that intersection will be widened to provide an eastbound right-turn lane, and related signalization system modifications will be performed as well as roadway channelization and illumination in compliance with KCRS. Along with the widened section, full-width shoulder improvements will be installed as well as a transition to the existing shoulder widths at/near the limits of the channelization transition.
 - iv. To mitigate a significant adverse impact at the intersection of the realigned 46th Place South/South 321st Street intersection, South 321st Street will be widened as necessary to provide a westbound left-turn lane as well as necessary transitions, channelization and illumination under KCRS. With that improvement, the new intersection will perform at an acceptable LOS under County standards. The intersection may warrant signalizing in the future (and as noted, the Applicant will install the below-ground infrastructure necessary for signal installation), and will be reevaluated in the future to see if it meets signal warrants; signalization is currently not on the County's Capital Improvement Program.
6. Several persons participating in the hearing expressed concern about the traffic impacts of the proposed development, and in effect contest the notion that the proposal conforms to applicable County traffic impact mitigation standards. The preponderance of the evidence (which is not refuted by persuasive traffic analysis), however, does not support their positions.
- A. The development's traffic projections produced by the Applicant's consultants and reviewed by KCDOT are not shown to be erroneous with respect to trip generation or distribution.
 - B. A recent fatal accident during the past summer on South 321st Street does not persuade of the presence of a High Accident Location (HAL) along the subject stretch of the road. The accident was shown to have been caused by driver error, and not by road conditions or geometry.
 - C. The realignment of 46th Place South conforms to KCRS. The intersection separation between the old intersection (which will continue to operate as a T-intersection with the 44th Avenue South leg) and the new intersection meets intersection spacing standards and conforms to KCRS. The current 44th Avenue South intersection with South 321st Street is an angled intersection not meeting current standards and has deficient entering sight distance. The realignment of 46th Place South addresses the sight distance concerns with respect to the traffic impacts of the proposed development. With the realignment, the effects of the additional traffic generated by the proposed development on the operation of the 44th Avenue South/South 321st Street intersection have not been shown to be a significant adverse impact with respect to either LOS or HAL, and therefore do not require mitigation under the code.

- D. Great concern was expressed regarding pedestrian safety on area roads, particularly for children walking to nearby recreation opportunities, such as Kilo Middle School to the northeast, and to neighborhood commercial attractants such as at the South 320th Street/Military Road intersection, and crossing of South 321st Street, which is contended to be unsafe unless a signal is installed at the new proposed intersection of 46th Place South and South 321st Street. As noted above, signalization may in the future be warranted and the underground signal infrastructure will be installed by the development in anticipation of signalization, but the Examiner is without authority to require additional offsite pedestrian improvements. The authority of RCW 58.17.110 regarding offsite pedestrian safety is limited to school-related resident pedestrian activity (see Finding 10), and the Examiner is without specific authority to require additional improvements for pedestrian activity not directly related to resident schoolchildren travel to/from pertinent schools and/or bus stops. As noted above, the Applicant is voluntarily extending offsite the South 321st Street frontage improvements, easterly to connect with those on the east side of 51st Avenue South and westerly to connect with the old intersection of 46th Place South/44th Avenue South with South 321st Street.
 - E. The traffic impacts of the proposed development on the signalized South 321st Street/South Peasley Canyon Road intersection do not significantly impact the deficient-LOS movements at the intersection and therefore no mitigation may be required under County code.
 - F. Concern about traffic impacts on Mountain View Drive (to the southeast of the site along a continuous extension of 46th Place South and South 331st Street downslope toward and within the City of Auburn), which is stated to be a road developed only to rural standards and therefore unsafe for increased traffic, is not impacted by a sufficient percentage of the development's generated traffic and number of trips to require congestion-or HAL-related intersection mitigation under County code.
 - G. Intersection movements at the South 320th Street/Military Road South intersection other than on the to-be-mitigated west leg are not demonstrated by a preponderance of the evidence in the record to be impacted by the proposed development to the degree that would require traffic impact mitigation under County code.
7. Although some neighborhood appreciation has been expressed for proposed deadending of existing 46th Place South between the property's southwest corner and South 321st Street by the proposed barricading of the existing 46th Place South leg at the intersection, some persons expressed concern about noise and privacy impacts of the new alignment portion of 46th Place South and request fencing to protect against noise and privacy effects. There is no authority for the Examiner to require such fencing as a part of the development. The Examiner concurs with DDES's assertion that there is no authority in County code in cases of similar zoning and relatively similar (single-family detached residences) types of development to impose such screening measures.

8. With respect to the fear of cut-through traffic utilizing the new alignment of 46th Place South, there has been no demonstration in the record that cut-through traffic would be increased over that which is possible now under the current alignment. The relocation of the road and intersection merely provides a physical difference of location for any potential cut-through traffic.
9. Concerns about speeding traffic on 51st Avenue South coming downhill and continuing westbound along South 321st Street should be addressed by law enforcement inquiries. There is no evidence in the record that speeding traffic forms a HAL in the subject area.
10. The development's resident public schoolchildren will be bused to their respective schools from a bus stop on or near the frontage of the subject property. Currently, the bus stop is located at the existing intersection of 46th Place South with South 321st Street, the route to which as noted will be provided offsite pedestrian improvements from the direct frontage of the subject property on South 321st Street, but the Applicant also indicates on the proposed preliminary plat map a future bus stop location at the intersection of the internal Road A of the development with the realigned 46th Place South. With either of the locations, sufficient safe walking conditions would be provided by the development, in conformity with the "appropriate provisions" test of RCW 58.17.110.
11. A total of three recreation tracts are proposed within the development, although two are within close proximity to each other: the main Tract C, which will contain recreation facilities above an underground drainage detention vault (see later Findings regarding drainage), and Tract D directly across Road C in the southwest portion. Tract G is a separate additional recreation tract located in the north-central portion of the development. As long as reasonable recreation amenities are located within Tract G in addition to the main amenities in Tract C, the location of the recreation tracts provide sufficient centrality for residents within the development, and of additional benefit, as contended by the Applicant, Tract C forms a conveniently central location to neighborhood residents outside of the development, whom the Applicant is proposing to allow to use the proposed recreation facilities, with specific provisions in the homeowner's association Codes, Covenants and Restrictions (CC&R's). Of particular importance in considering the convenience and accessibility of the recreation facilities to all of the proposed development residents is the provision of walkway tracts (Tracts D and F) between Roads C and D, which will provide a shorter pedestrian route for residents in the northeast portion of the site to the main recreation Tract C in the southwest portion of the site.
12. Concern and dismay was expressed regarding the proposed density of the proposed development, and assertions that it is out of character with the surrounding area. The proposal conforms to County code density regulations. The basic density under the existing R-4 zoning of the property would allow four dwelling units per acre, but the allowance of a density bonus by the TDR provisions of Chapter 21A.37 is permitted as well. The Examiner has no authority to disallow the use of the TDR density credits as proposed, or to require a density that is less than that permitted overall by County code.

13. With respect to development drainage impacts, a Level 1 drainage analysis was performed which identified conveyance restrictions and downstream drainage problems associated with the natural discharge locations of two of the three sub-basins onsite. Accordingly, a drainage adjustment (L04V0101) was approved for the development to combine the onsite sub-basins into one for post-development drainage purposes.
 - A. Development drainage will be collected in street catchbasins and conveyed in underground piping to a single detention/water quality facility located in the southwest corner of the site in Tract C, following the general natural drainage pattern of the southwesterly descending terrain.
 - B. Post-detention drainage will be routed north in a new drainage pipe in the 46th Place South right-of-way, then westerly along the south side of South 321st Street to discharge into Mill Creek.
 - C. The detention volume will be sized based on the possibility of sequential storms, with the chance for overflow almost entirely eliminated.
 - D. The drainage release rate from the detention facility will be a slower rate than the natural release rate, under Level 2 flow control in the 1998 King County Stormwater Design Manual (KCSWDM), in order to preclude aggravation of downstream erosion problems in Mill Creek and Peasley Canyon.
 - E. The underground drainage detention vault will also provide water quality maintenance and dead storage; the vault will be maintained by King County. The proposed drainage facilities will address the history of drainage complaints to the south of the site by eliminating any further impacts of sheetflow draining offsite to the south.
 - F. As previously noted in Footnote 1, Tract H is asserted to contain a stream which may constitute a sensitive area under the County's Sensitive Areas Ordinance, but the evidence in the record shows that although it may be a seasonal drainage swale, there is no persuasive demonstration of a sensitive area with Tract H. The existing drainage of such area is picked up by catch basins and any effect of the existing drainage from Tract H that affects the proposed development will be taken into account in the engineering plan review. The potential future development of Tract H will have its drainage impacts addressed when it is proposed for permitting.
14. Sanitary sewer service will be provided to the proposed development lots by the provision of a new gravity line north on 46th Place South and then west along South 321st Street to connect to a Lakehaven Sewer District pump station west of the present location of the 46th Place South intersection with South 321st Street. Persons expressed concern about sewage treatment capacity and the hookup policies of the sewer district. The district has indicated sufficient capacity to serve the proposed development by a Certificate of Availability, and that is the level of evidence upon which the County relies for determination of appropriate provisions for treatment of sanitary wastes in subdivision proposals. Sewage hookup policies applicable to existing offsite development are not a matter under the Examiner's authority, but should be addressed to the sewer district itself.

15. Concern was expressed about construction dust aggravating the health condition of an asthmatic or otherwise dust-sensitive child residing in the area. The Applicant stated that it is working with the family of the child to achieve a safe resolution of such situation by providing air quality maintenance and sealing of the affected residence. The Examiner is without authority to impose any special conditions of preliminary plat approval in such regard, since the issue is not identified as a significant adverse environmental impact in the environmental documents of the proposed development, nor is there any particular County code provision addressing such situation that would be appropriate to impose on *preliminary* plat approval. The County's construction management regulations and policies may be able to address the situation, and it appears that private resolution is being achieved by diligent attention by the Applicant.
16. The loss of wildlife which is asserted to be accommodated on the subject property in its currently mostly undeveloped state would be lamentable. There is no evidence in the record, however, that any threatened and/or endangered species are present onsite or that any related critical habitat is present onsite and therefore there is no authority for requiring protection and/or preservation conditions. The loss of wildlife is an inherent part of urbanization, but on a general basis is accommodated by the reservation of natural areas such as open space tracts and parks, and in general is not governed by County code regulations on individual developments unless threatened and/or endangered species are involved.

CONCLUSIONS:

1. Persons expressed concern about the lack of general infrastructure for urban development in what is contended to be a rural area to accommodate the proposed development and urbanization. The Examiner only has authority to ensure that the minimum requirements of County code are met by proposed development, and in general cannot honor the request that the proposal be looked at more "qualitatively" rather than "quantitatively" as some concerned persons have expressed.³
2. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-4 zone and the TDR allowances permitted under Chapter 21A.37 KCC.

³ One of the legal premises underlying the land use planning and regulatory system in Washington State is that decisions on individual applications must be based upon adopted ordinances and policies rather than upon the personal preferences or general fears of those who may currently live in the neighborhood of the property under consideration. [*Department of Corrections v. Kennewick*, 86 Wn. App. 521, 937 P.2d 1119 (1997); *Indian Trail Prop. Ass'n. v. Spokane*, 76 Wn. App. 430, 439, 886 P.2d 209 (1994); *Maranatha Mining v. Pierce County*, 59 Wn. App. 795, 805, 801 P.2d. 985 (1990); *Woodcrest Investments v. Skagit County*, 39 Wn. App. 622, 628, 694 P.2d 705 (1985)] The evaluation of the application must therefore be based upon officially adopted county ordinances, plans and policies, and state law, as well as legally accepted principles. And the legislative wisdom of state and county lawmakers must be respected "as is" in deciding the application, since policy decisions are the province of the legislative branch. A quasi-judicial decisionmaker cannot substitute the decisionmaker's judgment for that of the legislative body "with respect to the wisdom and necessity of a regulation." [*Cazzanigi v. General Electric Credit*, 132 Wn. 2d 433, 449, 938 P.2d 819 (1997); *Rental Owners v. Thurston County*, 85 Wn. App. 171, 186-87, 931 P.2d 208 (1997)]

3. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
4. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
5. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on June 1, 2006, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *CamWest Federal Way* subdivision, as revised and received June 1, 2006, is approved subject to the following conditions of approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. The applicant shall provide the TDR certificate with the submittal of the engineering plans and the final plat. If the TDR certificate cannot be obtained, the applicant shall redesign the number of lots based upon the allowable density. This will result in the reconfiguration and loss of lots.

The density for Tract H shall not exceed 17 units (allowable) or 25 units (maximum with use of TDR). The density for Tract I shall not exceed 16 units (allowable) or 24 units (maximum with use of TDR). Future development application(s) for Tracts H and I shall be subject to separate land use applications and approvals by King County and shall in general be subject to the laws and regulations in effect at the time of application completeness. Notes to this effect shall be shown on the face of the final engineering plans and final plat.

5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the approved preliminary plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the King County Surface Water Design Manual (KCSWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 KCSWDM and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
8. The drainage facilities shall meet the requirements of the 1998 KCSWDM. The facilities shall meet the requirements for Level 2 Flow Control and Basic Water Quality in the KCSWDM.
9. An offsite drainage pipe improvement is required from the Tract C detention vault, north along 46th Ave S and west along S 321st St to Mill Creek. Plans for this improvement shall be designed in conformance with Core Requirement 4 of the KCSWDM and be included with the development engineering plans.
10. A drainage adjustment (L04V0101) is approved for this site. All conditions of approval for this adjustment shall be met prior to approval of the engineering plans.

11. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):

- a. Road A, the subdivision entrance road off realigned 46th Place South, shall be improved at a minimum to the urban subcollector standard.
- b. Road B and Road C shall be improved at a minimum to the urban subaccess street standard. If the Applicant chooses to construct Road C to the urban subcollector standard, a variance to the King County Road Standards will be required for the use of the low-speed curve near proposed Lot 95.

A Type III barricade shall be installed at the easterly temporary terminus of Road B, near proposed Lot 26. Signage shall be manufactured (aluminum sign blank) and installed (using tamper-resistant hardware) on the barricade that identifies that the roadway is temporarily closed and will be extended with future development. The sign shall provide the following message *“(street name) is temporarily barricaded and is required to be extended upon future development. Please contact King County DOT Traffic Impacts Unit at 206-296-6596 for information.”*

- c. Road E shall be improved at a minimum to the urban subaccess street standard.

A Type III barricade shall be installed at the southerly temporary terminus of Road E, near proposed Lot 99. Signage shall be manufactured (aluminum sign blank) and installed (using tamper-resistant hardware) on the barricade that identifies that the roadway is temporarily closed and will be extended with future development. The sign shall provide the following message *“(street name) is temporarily barricaded and is required to be extended upon future development. Please contact King County DOT Traffic Impacts Unit at 206-296-6596 for information.”*

- d. The Road D loop shall be improved at a minimum to the urban minor access street standard.
- e. FRONTAGE: The frontage along 46th Place South shall be improved full width to the urban collector arterial standard. A minimum 60 feet of right-of-way shall be dedicated on the west side of the subdivision. This shall include 44 feet of paving, concrete curbs, gutter, and sidewalks along both sides of the street. At the intersection of Road A and 46th Place South, a widened concrete sidewalk pad shall be provided for relocated school bus stops as applicable.

These improvements shall include an appropriate transition to the existing roadway improvements south of the subdivision boundary. A full width overlay may be required according to Section 4.01 F of the KCRS.

Plans for this improvement shall include a channelization and illumination plan that incorporates a northbound left turn lane meeting applicable County standards at the intersection with South 321st Street, and the indicated bicycle lanes, and shall include the delineation of the transition to the existing roadway improvements located south of the

subdivision. Plans for this improvement shall include conduit runs, junction boxes (independent of the illumination system) for future signalization of the South 321st Street/46th Place South.

Sight-obscuring vegetation within the existing right-of-way along the south side of South 321st Street, from west of the new intersection to existing 46th Place South, shall be cleared within a corridor extending from ground level to a point seven (7) feet above existing ground elevations.

- f. **FRONTAGE:** The frontage along South 321st Street shall be improved at a minimum to the full width urban collector arterial standard. The applicant has shown urban frontage improvements on the revised plat map submitted to DDES on June 01, 2006. The sidewalk along the south side of South 321st Street shall be extended east of the subdivision boundary to tie into the frontage improvements constructed with the plat of Peasley Ridge (DDES File L98P0008).

These improvements shall include an appropriate transition to the existing roadway improvements to northeast and west of the subdivision boundary. Plans for this improvement shall include conduit runs, junction boxes (independent of the illumination system) for future signalization of the South 321st Street/46th Place South, including lines for both the advance detection system and the lines under each of the three legs of the intersection itself.

A full width overlay may be required according to Section 4.01F of the KCRS.

- g. **OFF-SITE:** The portions of 46th Place South (existing) shall be realigned as shown on the revised plat map submitted to DDES on June 01, 2006. The northerly end of the roadway (currently the intersection of 46th Place at South 321st Street) shall be permanently barricaded as approved by the KCDOT Traffic Engineering Section. The existing paving on 46th Place South shall be sawcut and removed from a point 22-feet south of the existing centerline on South 321st Street southerly a minimum width (n-s) of 10-feet, to the location of the permanent barricade. If required by KCDOT during engineering plan review, this pavement removal shall extend across the entire south leg of the intersection. A turnaround at the barricaded north end shall be provided within the existing R/W. Other options for this barricade and turnaround may be considered for approval by DDES and KCDOT.

The southerly shoulder of South 321st Street adjacent to the sections of pavement removal (as noted above) shall be reconstructed with either a raised asphalt walkway or a concrete curb, gutter and sidewalk section (preferred) to accommodate pedestrians and to provide enhanced visual contrast of the roadway closure. The Applicant has volunteered to construct urban improvements along the south side of South 321st Street, from existing 46th Place South to 46th Place South.

A full width overlay may be required according to Section 4.01F of the KCRS.

- h. Tract F shall be improved at a minimum to the joint use driveway standard per Section 3.01 of the KCRS. However, the width of the Tract shall be increased by a minimum of 5 feet to provide a public pedestrian access alongside the J.U.D.
 - i. The 15-foot wide utility easement west of proposed Lot 76 shall be placed within a public pedestrian access tract. The pedestrian access tract shall be paved a minimum of 5 feet in width. The tract shall be owned and maintained by the homeowners association. Notes to this effect shall be shown on the final plat and the engineering plans.
 - j. Modifications to the above road conditions may be considered according to the variance procedures in Section 1.08 of the KCRS.
- 12. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
- 13. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
- 14. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
- 15. There shall be no direct vehicular access to or from S. 321st St or 46th Place South from those lots which abut it. A note to this effect shall appear on the engineering plans and the final plat.
- 16. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the final plat.
- 17. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans. Fencing and additional landscaping shall be provided on the perimeter of Tract C to preclude potential conflicts between recreation space users and vehicles. Tracts D and E are landscape tracts and shall not be included in the recreation space calculations. Tract G shall be improved

with a reasonable amount of recreational equipment amenities so as to provide recreation opportunities to residents in the northeastern part of the development closer than those which will be placed in the primary recreation Tract C.

- b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
 - c. The development homeowners' association (see below) bylaws and the development codes, covenants and restrictions (CC&R's) shall provide that Tract C and its recreation facilities shall be accessible to and open to use by members of the general public.
18. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and landscape tracts.
19. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if S. 321st St. is on a bus route. If so, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are

found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.

20. The following have been established by SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these items prior to final approval.

- a. In order to mitigate the significant adverse impact (14.80.030A) that the proposed development will have at the intersection of South 320th Street/ Military Road South intersection, as identified in the original and resubmitted traffic impact analyses, the applicant will widen South 320th Street. This roadway widening will provide an eastbound right turn lane in general conformance with the conceptual channelization/improvement plan received 10 October 2005, for the eastbound-to-southbound right turn movement and include all related signalization system modifications, as well as roadway channelization and an illumination system designed in compliance with the King County Road Standards.

The plans for this off-site roadway improvement shall incorporate full-width shoulder improvements (either a paved shoulder or concrete curb, gutter and sidewalk) along the south side of South 320th Street through the limits of the widened section, transitioning to a width matching the existing shoulder width at/near the limits of the channelization transition.

- b. In order to mitigate the significant adverse impact (14.80.030B) that the proposed development will have at the intersection of realigned 46th Place South/South 321st Street, the Applicant shall, either individually or jointly with the developer of the “Serrano” subdivision (DDES File# L05P0010), widen South 321st Street as necessary to provide a westbound left turn lane meeting applicable King County Standards together with necessary transitions to the existing roadway section to the east and west of the intersection. This shall include all necessary channelization and illumination in accordance with the 1993 King County Road Standards.

Plans for these improvements shall be submitted to the King County DOT Traffic Engineering Section for review and approval.

ORDERED January 4, 2007.

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED January 4, 2007 to the following parties and interested persons of record:

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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before January 18, 2007***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before January 25, 2007***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE NOVEMBER 14, 2006, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L04P0024.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Bruce Whittaker and Kristen Langley, representing the Department; attorney Robert Johns representing the Applicant; Intervenor Edward Raymond; Richard Tomkins, Gerald Buck, Elizabeth Cruikshank, Jeffery Kelly, Brian Patton, Steve Vinton, Yvonne Braune, Bob Zimmerman and Sara Slatten.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services file no. L04P0024
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report, dated November 14, 2006
- Exhibit No. 3 Application for Land Use Permits received November 24, 2004
- Exhibit No. 4 SEPA environmental checklist received November 24, 2004
- Exhibit No. 5 Mitigated Determination of Non-significance issued September 1, 2006
- Exhibit No. 6 Affidavit of Posting indicating a posting date of January 7, 2005; received by DDES on January 11, 2005
- Exhibit No. 7 Preliminary plat map received June 1, 2006 (Revision)
- Exhibit No. 8 Assessor's Maps SE 10-21-04, SW 11-21-04, NW 14-21-04, NE 15-21-04
- Exhibit No. 9 Level 1 Downstream Analysis/Revision by Triad received Oct. 14, 2005
- Exhibit No. 10 Revised Grading & Utility Plan by Triad received June 1, 2006
- Exhibit No. 11 Geotech report by Associated Earth Sciences Inc. dated Nov. 18, 2004
- Exhibit No. 12 Wetland Reconnaissance Report by C. Gary Shulz dated November 20, 2004
- Exhibit No. 13 Traffic Impact Study by Transportation Engineering NW, dated July 7, 2005 (Revised)
- Exhibit No. 14 Revised Density calculations received October 24, 2006
- Exhibit No. 15 TDR Certificate (no. 106) received October 24, 2006
- Exhibit No. 16 Annotated photos of neighborhood streets (4 color copies number 1-4)
- Exhibit No. 17 Annotated aerial photos (4 color)
- Exhibit No. 18 Neighborhood Circulation Plan by Triad Associates, received November 24, 2004
- Exhibit No. 19 Conceptual Plan South 320th/Military Road by Transportation Engineering Northwest, dated October 6, 2005
- Exhibit No. 20 Drainage exhibit by Triad Associates
- Exhibit No. 21 Preliminary Plat map by Triad Associates with revised density calculations
- Exhibit No. 22 Photographs (2 color originals) taken by Jeffery Kelly
- Exhibit No. 23 Photographs (4 color originals) taken by Jeffery Kelly
- Exhibit No. 24 Printout of PowerPoint presentation by Brian Patton with cd
- Exhibit No. 25 Preliminary Construction Cost Estimate for traffic circle at 46th Pl. S.
- Exhibit No. 26 Additional language for condition 11.g

PTD:ms

L04P0024 RPT